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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/766,725 | 01/22/2001 | Egbert Jux | CL/V-30578A | 1309 |

1095 7590 05/12/2004

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 430/2
EAST HANOVER, NJ 07936-1080

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| EXAMINER |
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ANGEBRANNDT, MARTIN J

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| ART UNIT | PAPER NUMBER |
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1756

DATE MAILED: 05/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/766,725

Applicant(s)

JUX ET AL.

Examiner

Martin J Angebranndt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2004 and 12 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-15, 22, 23 and 25-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-15, 22, 23 and 25-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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1. The response of the applicant has been read and given careful consideration. Response to the amendment and accompanying arguments are presented after the first rejection to which they are directed. Rejections of the previous office action not found below are withdrawn based upon the amendment and arguments of the applicant.

2. Claim 26 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

This limitation is included in claim 1 already.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,3-7,10,13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. '087, in view of Duis et al. '090 and Kiyosaki JP 08-047784.

Martin et al. '087 teach blister packages comprising a polymer layer (30) printed on both sides, an adhesive layer (32), a foil (34), a laquer layer (38), an adhesive layer (40) and a polypropylene layer (50) which is heat welded to the formed polypropylene lens package (14) (figures 5 and 6, 6/21-8/61). Information specific to the product (which is changeable), such as lot numbers, expiration dates, contact lens powers are formed by printing on the outside of the polymer layer (30) (8/27-31). The blister packs are shown in strips of five (figure 1).

Duis et al. '090 teach labels for contact lens blister packs comprising a polymer layer (50) printed on both sides (62,52), an adhesive layer (56), a foil (54), an adhesive layer (58) and a polypropylene layer (60). The use of laser marked/ablated labels allows the sealed blister packages to be steam sterilized, which cannot be done with thermal transfer marking processes. (abstract and 5/30-60) The laser ablation removes an ink layer to reveal an underlying ink layer of a different/contrasting color or all the layers above the metal foil (see figure 2 and 4/34-5/26). The laser ablation can be preformed either before or after the stock is affixed to the container. (5/27-29). The polymer layer (50) has printing on either side. The use of a colored polymeric layer rather than a metal foil layer (54) is disclosed. The ablation is preformed with a carbon dioxide laser (10.63 microns wavelength and 90-100% of 15 Watt power over a 4 inch square area (4/53-5/15).

Kiyosaki JP 08-047784 (note machine translation) shows marked blister packs in figures 3 and 4. These are marked as part of the continuous process disclosed with respect to figure 2. The carbon dioxide laser and marking optics are shown as 11 and 12 in figure 2. The use of a laser to remove a portion of an ink layer in section [0004]. The PVC (polyvinyl chloride, a plastic) is discolored by the CO₂ laser irradiation and each pocket of the blister pack is marked. [0011]. The apparatus "8" punches out each of the separate groups. The apparatus "6" seals the packaging. These are shown in figures 3 and 4 as two columns of 5 tablets. Each if the columns is considered as strip. The blister pack is a laminate as the blister is formed between two layers. Apparatus 10 marks the packages after they are sealed by apparatus 6. The use of either PVC or polypropylene and the use of discoloration or simple recessing as the marks is disclosed. [0005].

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It would have been obvious to modify the process set forth in Martin et al. '087 by marking the blister packs after heat sealing them as taught by Kiyosaki JP 08-047784 and Duis et al. '090 and to use a carbon dioxide laser to laser ablate markings down to the foil level as taught by Duis et al. '090 rather than using printing to enable steam sterilization. There is a reasonable expectation of success based upon the similarity of the laminates of Martin et al. '087 and Duis et al. '090

The applicant is correct that Kiyosaki JP 08-047784 did not describe the process, specifically the presence of two films. The citation and application of Martin et al. '087 and Duis et al. '090 cure this shortcoming in Kiyosaki JP 08-047784. Heat welding is taught by Martin et al. '087 and sealing is specifically taught by Kiyosaki JP 08-047784 [0009, although the exact process is not. The marking after sealing is clearly taught by both Kiyosaki JP 08-047784 and Duis et al. '090 and cannot be considered unobvious.

5. Claims 1-7,10-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. '087, in view of Duis et al. '090, Kiyosaki JP 08-047784 and Roy '771.

Roy '771 teaches that carbon dioxide lasers, and YAG laser are known to be useful in laser marking (3/36-51). The energy, wavelength and laser spot size are disclosed. (5/51-62 and table 1.) The laser spot size is equivalent to the hole size.

In addition to the basis provided above, Roy '771 teaches the equivalence of carbon dioxide and Nd-YAG lasers in laser marking processes as well as the size of width of the markings which is the same as the laser beam and the examiner holds that it would have been obvious to one of ordinary skill in the art to modify the invention of the combination of Martin et al. '087, in view of Duis et al. '090 and Kiyosaki JP 08-047784 by using other lasers and/or laser

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spot sizes, such as those taught by Roy '771 based upon the disclosure of equivalence within that reference.

The rejection stands for the reasons above as no further arguments were directed at this rejection.

6. Claims 1-7 and 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. '087, in view of Duis et al. '090, Kiyosaki JP 08-047784 and Roy '771, further in view of Bornfleth et al. '683

Bornfleth et al. '683 establishes that within the manufacturing field, it is old and well known that closely adjacent processing lines allow a single attendant to monitor several of them simultaneously.

In addition to the basis provided above, the examiner holds that it would have been obvious to one of ordinary skill in the art to modify the invention of the combination of Martin et al. '087, in view of Duis et al. '090, Kiyosaki JP 08-047784 and Roy '771 by running plural lines adjacent to one another to save on personnel costs as disclosed by Bornfleth et al. '683.

As the arguments are the same as above, the response provided above is relied upon without further comment. The rejection stands.

7. Claims 1-7, 10-13, 15, 22, 23 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. '087, in view of Duis et al. '090, Kiyosaki JP 08-047784, Roy '771 and Kim et al. '878

Kim et al. '878 teach that the polymeric (plastic) sheet may be colored or not. (8/57-61). Various thermoplastic polymers, including PVC and polypropylene are disclosed. (3/7-40). The use of aluminum foil backing is also disclosed. (8/46-57)

In addition to the basis provided above, the use of either colored or uncolored plastics is considered obvious based upon the disclosure of Kim et al. '878. The use of the colorant makes no difference to the marking as the polymer itself absorbs the laser in the combination of Martin et al. '087, in view of Duis et al. '090, Kiyosaki JP 08-047784 and Roy '771, but the addition of a colorant could increase the spectral absorption properties of the film to allow the use of other lasers, such as Nd-YAG lasers.

The rejection stands for the reasons above as no further arguments were directed at this rejection.

8 Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

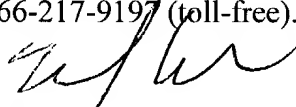
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin J Angebrannt whose telephone number is 571-272-1378. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on 571-272-1385. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Martin J Angebrannt
Primary Examiner
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05/05/2004